

**CONSULTING SERVICES AGREEMENT BETWEEN
THE CITY OF MILPITAS AND
HF&H CONSULTANTS, LLC.**

THIS AGREEMENT for consulting services is made by and between the City of Milpitas ("City") and HF&H Consultants, LLC ("Consultant") as of June 19, 2007.

AGREEMENT

Section 1. SERVICES. Subject to the terms and conditions set forth in this Agreement, Consultant shall provide to City the services described in the Scope of Work attached as Exhibit A at the time and place and in the manner specified therein. In the event of a conflict in or inconsistency between the terms of this Agreement and Exhibit A, the Agreement shall prevail.

- 1.1 **Term of Services.** The term of this Agreement shall begin on the date first noted above and shall end on June 19, 2008. The Consultant shall complete all the work described in Exhibit A prior to that date, unless the term of the Agreement is otherwise terminated or extended, as provided for in Section 8. The time provided to Consultant to complete the services required by this Agreement shall not affect the City's right to terminate the Agreement, as provided for in Section 8.

Section 2. COMPENSATION. City hereby agrees to pay Consultant a guaranteed maximum price not to exceed \$ 54,960.00 for all services to be performed and reimbursable costs incurred under this Agreement as specified in Exhibit B. City shall pay Consultant for services rendered pursuant to this Agreement at the time and in the manner set forth herein. The payments specified below shall be the only payments from City to Consultant for services rendered pursuant to this Agreement. Consultant shall submit all invoices to City in the manner specified herein. Except as specifically authorized by City, Consultant shall not bill City for duplicate services performed by more than one person.

Consultant and City acknowledge and agree that compensation paid by City to Consultant under this Agreement is based upon Consultant's estimated costs of providing the services required hereunder, including salaries and benefits of employees and subcontractors of Consultant. Consequently, the parties further agree that compensation hereunder is intended to include the costs of contributions to any pensions and/or annuities to which Consultant and its employees, agents, and subcontractors may be eligible. City therefore has no responsibility for such contributions beyond compensation required under this Agreement.

- 2.1 **Total Payment.** City shall pay for the services to be rendered by Consultant pursuant to this Agreement. City shall not pay any additional sum for any expense or cost whatsoever incurred by Consultant in rendering services pursuant to this Agreement. City shall make no payment for any extra, further, or additional service pursuant to this Agreement.

In no event shall Consultant submit any invoice for an amount in excess of the maximum amount of compensation provided above either for a task or for the entire Agreement, unless the Agreement is modified prior to the submission of such an invoice by a properly executed change order or amendment.

- 2.2 **Hourly Fees.** Fees for work performed by Consultant on an hourly basis shall not exceed the amounts shown on Exhibit B.
- 2.3 **Reimbursable Expenses.** Reimbursable expenses are itemized and shown on Exhibit B, and shall not exceed Twelve-Hundred Dollars (\$ 1,200.00).
- 2.4 Expenses not listed in Exhibit B are not chargeable to City. Reimbursable expenses are included in the total not-to-exceed amount of compensation provided under this Agreement.

Section 3. INSURANCE REQUIREMENTS. Before beginning any work under this Agreement, Consultant shall procure "occurrence coverage" insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by the Consultant and its agents, representatives, employees, and subcontractors. Consultant shall provide proof satisfactory to City of such insurance that meets the requirements of this section and under forms of insurance satisfactory in all respects to the City. Consultant shall maintain the insurance policies required by this section throughout the term of this Agreement and shall produce said policies to the City upon demand. The cost of such insurance shall be included in the Consultant's price. Consultant shall not allow any subcontractor to commence work on any subcontract until Consultant has obtained all insurance required herein for the subcontractor(s) and provided evidence thereof to City. Verification of the required insurance shall be submitted and made part of this Agreement prior to execution.

- 3.1 **Workers' Compensation.** Consultant shall, at its sole cost and expense, maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Consultant. The Statutory Workers' Compensation Insurance and Employer's Liability Insurance shall be provided with limits of not less than ONE MILLION DOLLARS (\$1,000,000.00) per accident. In the alternative, Consultant may rely on a self-insurance program to meet those requirements, but only if the program of self-insurance complies fully with the provisions of the California Labor Code. Determination of whether a self-insurance program meets the standards of the Labor Code shall be solely in the discretion of the City's Risk Manager. The insurer, if insurance is provided, or the Consultant, if a program of self-insurance is provided, shall waive all rights of subrogation against the City and its officers, officials, employees, and volunteers for loss arising from work performed under this Agreement.

An endorsement shall state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.

3.2 **Commercial General and Automobile Liability Insurance.**

- 3.2.1 **General requirements.** Consultant, at its own cost and expense, shall maintain commercial general and automobile liability insurance for the term of this Agreement in an amount not less than ONE MILLION DOLLARS (\$1,000,000.00) per occurrence, combined single limit coverage for risks associated with the work contemplated by this Agreement. If a Commercial General Liability Insurance or an Automobile Liability form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit. Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from activities contemplated under this Agreement, including the use of owned and non-owned automobiles.

- 3.2.2 **Minimum scope of coverage.** Commercial general coverage shall be at least as broad as Insurance Services Office Commercial General Liability occurrence form CG 0001 (ed. 11/88) or Insurance Services Office form number GL 0002 (ed. 1/73) covering comprehensive General Liability and Insurance Services Office form number GL 0404 covering Broad Form Comprehensive General Liability. Automobile coverage shall be at least as broad as Insurance Services Office Automobile Liability form CA 0001 (ed. 12/90) Code 1 ("any auto"). No endorsement shall be attached limiting the coverage.

- 3.2.3 **Additional requirements.** Each of the following shall be included in the insurance coverage or added as an endorsement to the policy:

- a. City and its officers, employees, agents, contractors, consultants, and volunteers shall be covered as insureds with respect to each of the following: liability arising out of activities performed by or on behalf of Consultant, including the insured's general supervision of Consultant; products and completed operations of Consultant; premises owned, occupied, or used by Consultant; and automobiles owned, leased, or used by the Consultant. The coverage shall contain no special limitations on the scope of protection afforded to City or its officers, employees, agents, contractors, consultants, or volunteers.
- b. The insurance shall cover on an occurrence or an accident basis, and not on a claims-made basis.
- c. An endorsement must state that coverage is primary insurance with respect to the City and its officers, officials, employees, contractors, consultants, and volunteers, and that no insurance or self-insurance maintained by the City shall be called upon to contribute to a loss under the coverage.
- d. Any failure of CONSULTANT to comply with reporting provisions of the policy shall not affect coverage provided to CITY and its officers, employees, agents, and volunteers.
- e. An endorsement shall state that coverage shall not be suspended, voided, or canceled by either party, reduced in coverage or in limits, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.

- 3.3 **Waiver.** The Risk Manager of the City has the authority to waive or vary any provision of this Section 3. Any such waiver or variation shall not be effective unless made in writing.

Section 4. INDEMNIFICATION AND CONSULTANT'S RESPONSIBILITIES. Consultant shall indemnify, defend with counsel reasonably acceptable to the City, and hold harmless the City and its officials, officers, employees, agents, contractors, consultants, and volunteers from and against any and all losses, liability, claims, suits, actions, damages, and causes of action arising out of any personal injury, bodily injury, loss of life, or damage to property, or any violation of any federal, state, or municipal law or ordinance, to the extent caused, in whole or in part, by the willful misconduct or negligent acts or omissions of Consultant or its employees, subcontractors, or agents, by acts for which they could be held strictly liable, or by the quality or character of their work. The foregoing obligation of Consultant shall not apply when (1) the injury, loss of life, damage to property, or violation of law arises wholly from the negligence or willful misconduct of the City or its officers, employees, agents, contractors, consultants, or volunteers and (2) the actions of Consultant or its employees, subcontractor, or agents have contributed in no part to the injury, loss of life, damage to property, or violation of law. It is understood that the duty of Consultant to indemnify and hold harmless includes the duty to defend as set forth in Section 2778 of the California Civil Code. Acceptance by City of insurance certificates and endorsements required under this Agreement does not relieve Consultant from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Consultant acknowledges and agrees to the provisions of this Section and that it is a material element of consideration.

In the event that Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of City, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

Section 5. STATUS OF CONSULTANT.

- 5.1 **Independent Contractor.** At all times during the term of this Agreement, Consultant shall be an independent contractor and shall not be an employee of City. City shall have the right to control Consultant only insofar as the results of Consultant's services rendered pursuant to this Agreement and assignment of personnel pursuant to Subparagraph 1.3. Otherwise, City shall not have the right to control the means by which Consultant accomplishes services rendered pursuant to this Agreement. Notwithstanding any other City, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of City and entitlement to any contribution to be paid by City for employer contributions and/or employee contributions for PERS benefits.
- 5.2 **Consultant No Agent.** Except as City may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent. Consultant shall have no authority, express or implied, pursuant to this Agreement to bind City to any obligation whatsoever.
- 5.3 **Nondiscrimination and Equal Opportunity.** Consultant shall not discriminate, on the basis of a person's race, religion, color, national origin, age, physical or mental handicap or disability, medical condition, marital status, sex, or sexual orientation, against any employee, applicant for employment, subcontractor, bidder for a subcontract, or participant in, recipient of, or applicant for any services or programs provided by Consultant under this Agreement. Consultant shall comply with all applicable federal, state, and local laws, policies, rules, and requirements related to equal opportunity and nondiscrimination in employment, contracting, and the provision of any services that are the subject of this Agreement, including but not limited to the satisfaction of any positive obligations required of Consultant thereby.

Consultant shall include the provisions of this Subsection in any subcontract approved by the City or this Agreement.

Section 6. LEGAL REQUIREMENTS.

- 6.1 **Governing Law.** The laws of the State of California shall govern this Agreement.
- 6.2 **Compliance with Applicable Laws.** Consultant and any subcontractors shall comply with all laws applicable to the performance of the work hereunder.

- 6.3 **Other Governmental Regulations.** To the extent that this Agreement may be funded by fiscal assistance from another governmental entity, Consultant and any subcontractors shall comply with all applicable rules and regulations to which City is bound by the terms of such fiscal assistance program.
- 6.4 **Licenses and Permits.** Consultant represents and warrants to City that Consultant and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required to practice their respective professions. Consultant represents and warrants to City that Consultant and its employees, agents, any subcontractors shall, at their sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals that are legally required to practice their respective professions. In addition to the foregoing, Consultant and any subcontractors shall obtain and maintain during the term of this Agreement valid Business Licenses from City.
- 6.5 **Nondiscrimination and Equal Opportunity.** Consultant shall not discriminate, on the basis of a person's race, religion, color, national origin, age, physical or mental handicap or disability, medical condition, marital status, sex, or sexual orientation, against any employee, applicant for employment, subcontractor, bidder for a subcontract, or participant in, recipient of, or applicant for any services or programs provided by Consultant under this Agreement. Consultant shall comply with all applicable federal, state, and local laws, policies, rules, and requirements related to equal opportunity and nondiscrimination in employment, contracting, and the provision of any services that are the subject of this Agreement, including but not limited to the satisfaction of any positive obligations required of Consultant thereby.

Consultant shall include the provisions of this Subsection in any subcontract approved by the Contract Administrator or this Agreement.

Section 7. TERMINATION AND MODIFICATION.

- 7.1 **Termination.** City may terminate this Agreement at any time and without cause upon written notification to Consultant.

In the event of termination, Consultant shall be entitled to compensation for services performed prior to the effective date of termination as provided in Section 2. City, however, may condition payment of such compensation upon Consultant delivering to City any or all documents, photographs, computer software, video and audio tapes, and other materials provided to Contract or prepared by or for Consultant or the City in connection with this Agreement.

- 7.2 **Extension.** City may, in its sole and exclusive discretion, extend the end date of this Agreement beyond that provided for in Subsection 1.1. Any such extension shall require a written amendment to this Agreement, as provided for herein. Consultant understands and agrees that, if City grants such an extension, City shall have no obligation to provide Consultant with compensation beyond the maximum amount provided for in this Agreement. Similarly, unless authorized by the City, City shall have no obligation to reimburse Consultant for any otherwise reimbursable expenses incurred during the extension period.

- 7.3 **Amendments.** The parties may amend this Agreement only by a writing signed by all the parties.

- 7.4 **Contract Administration.** This Agreement shall be administered by Kathleen E. Phalen, Utility Engineer who is authorized to act for, and on behalf of, City. All correspondence shall be directed to or through the Contract Administrator or his or her designee.

- 7.5 **Notices.** Any written notice to Consultant shall be sent to:
HF&H Consultants, LLC
Attn: Rick Simonson, Director, Solid Waste & Recycling Rate Services
2175 N. California Boulevard, Suite 990
Walnut Creek, California 94596

Any written notice to City shall be sent to:
City of Milpitas,
Attn: Kathleen E. Phalen, Utility Engineer
455 East Calaveras Boulevard
Milpitas, California 95035

7.6 Exhibits. All exhibits referenced in this Agreement are incorporated by reference herein.

CITY OF MILPITAS

CONSULTANT

Thomas C. Williams, City Manager

Robert D. Hilton, President

APPROVED AS TO FISCAL AUTHORITY:

Emma Karlen, Finance Director/Risk Manager

Taxpayer Identification Number

APPROVED AS TO FORM:

Steven T. Mattas, City Attorney

APPROVED AS TO CONTENT:

Greg Armendariz, Public Works Director/City Engineer

ATTEST:

Mary Lavelle, City Clerk

Attachments: Exhibit A: Scope of Work, Exhibit B: Budget, and Exhibit C: Insurance Requirements

Exhibit A – Scope of Work

Project Understanding and Proposed Approach

The City's contract with Allied calls for biennial cost-of-living adjustments, with the next adjustment due January 1, 2008. In accordance with the franchise agreement, the cost-of-living adjustment shall be calculated by adjusting each base rate upward or downward by 75% of the net percentage change in the Consumer Price Index, All Urban Consumers, for the San Francisco/Oakland/San Jose Metropolitan Area. In addition, the contract allows Allied to request an adjustment to cover extraordinary costs, such as changes in disposal charges, regulatory fees, and Subtitle D costs incurred at the landfill, etc. Further, changes in City fees and City-requested changes in services provided are also incorporated into the calculation of the final rate adjustment.

Our approach to this engagement is to work objectively with Allied Waste Services (Allied) and the City to review and evaluate the reasonableness of Allied's revenue and expenses related to providing services in accordance with the rate adjustment guidelines contained in the franchise agreement. We will rely on Allied's records (including audited financial statements, current year-to-date financial results of operations data, variance analyses, copies of transactions, operations data and other information provided by Allied) to evaluate its application. We will use an extensive data base of industry benchmarks for use in evaluating the reasonableness of Allied's expenses and operational statistics (e.g., number of routes, number of accounts served per day, etc.). Having reviewed the financial statements and books and records of other Allied affiliates, the City can have confidence in our ability to not only perform the calculations required, but to bring to the project an understanding of broader industry issues, results of operations, and service standards.

Work Plan

Task 1: Prepare for and Attend Kick-Off Meeting

We will meet once with City staff at a kick-off meeting to:

1. Introduce key members of the City staff and consultants;
2. Confirm the engagement scope and schedule;
3. Gain a more thorough understanding of the City's current solid waste and recycling operations and customer characteristics;
4. Identify and discuss key issues which may affect the analysis; and,
5. Finalize the schedule.

Task 2: Service Evaluation

We have assumed preparing for, facilitating and documenting two meetings to identify potential collection efficiencies and/or economy-of-scale savings that can be passed on to consumers. The first meeting will be with HF&H and City to identify potential cost saving opportunities which shall be presented to Allied for their comments. A second meeting will be held with Allied staff to gain their insight on the proposed changes. At that time, with the City

staff's help, we will define the scope and estimate the hours necessary to review the reasonableness of Allied's proposed cost savings and the impact on solid waste rates. We will evaluate the reasonableness and rate impact of Allied's proposed costs for any new services (i.e., automated solid waste collection service, volume-based rates, curbside collection of cell phones, batteries, and other universal waste). In addition, this task will include evaluating whether the new services implemented during the previous rate negotiations have been cost effective and resulted in the anticipated efficiencies and/or increased diversion. These new or revised collection services include: residential single-stream recycling; 10 annual neighborhood cleanup events; 2 annual free bulk service pickups for seniors; and, the use of smaller "scout" trucks to provide service to confined locations.

Task 3: Review Allied's Rate Adjustment Statement

Subtask 3.1: Mathematical Accuracy and Logical Consistency. HF&H shall review the mathematical accuracy and logical consistency of Allied's Rate Adjustment Statement in which it calculates the rate adjustment, as well as to confirm its compliance with the terms of the existing agreement.

Subtask 3.2: Indices. We will verify the calculation of the indices used to adjust the collection rates, ensuring compliance with the current contractual requirements. We understand that the calculated indices are applied to the current rates, not to individual cost components. Thus, we do not anticipate performing tasks normally associated with a detailed rate review, such as verifying the reasonableness of Allied's costs of service, unless Allied submits a claim for extraordinary costs (see Subtask 3.4 below).

Subtask 3.3: Non-Recurring or Fully Amortized Costs. HF&H will identify any non-recurring or fully amortized costs (e.g., household dump day overage reimbursement) that should be deleted prior to applying the applicable CPI adjustment.

Subtask 3.4: Extraordinary Cost Review. We will review Allied's claim, if any, for reimbursement of any extraordinary cost increases for appropriateness and reasonableness. We understand that, in past rate adjustments, these claims have included adjustments to the per ton disposal rate, unanticipated increases in liability insurance costs, extraordinary increase workers compensation premiums and fuel expenses. We will review Allied's supporting documentation in light of our industry knowledge and experience in reviewing other Allied divisions in the last year. Often, the hauler will have other costs that are less than anticipated and offset the extraordinary increases in these costs. We will weigh these

Subtask 3.5: Subtitle D Costs. We will review Allied's calculation of the annual Subtitle D costs related to the landfill, including verifying the proper calculation of interest expense.

Subtask 3.6: City Fees. We will obtain from the City information regarding proposed changes in City fees included in the solid waste rates. We will determine the rate impact of the change in fees and adjust the overall rate calculation to recover the desired fees as part of the rates.

Subtask 3.7: Calculate Adjusted Solid Waste Rates. We will recalculate the necessary rates (by service type and service level), based on our findings and recommended adjustments from the subtasks described above.

Subtask 3.8: Rate Adjustment Negotiation Meetings and Conference Calls. The engagement director and engagement manager will attend frequent rate adjustment negotiation meetings and conference calls with City staff and Allied management to review our findings and proposed adjustments to Allied's Rate Statement.

Task 4: Communicate Results

Subtask 4.1: Prepare Preliminary Draft Report. Based on the completion of each of the above tasks, we will develop a preliminary draft report for staff review. Our report will contain the recommended rate schedule tables. We will present this report in person to ensure adequate understanding of our findings and staff comments. This report basically functions as a working document intended to illicit staff comments and direction.

Deliverable – Electronic version of Draft Report (Word).

Subtask 4.2: Prepare Final Report. As appropriate, we will incorporate staff comments and submit a draft report for review by City staff and Allied staff. Upon receipt of final comments, we will finalize the draft and issue a final engagement report.

Deliverable – Five (5) copies of printed report and electronic version (PDF) of Final Report.

Subtask 4.3: Prepare for and Attend Council Meeting. We will present our recommendations to the Utility Rate Subcommittee and/or City Council.

Task 5: Engagement Management

We will prepare and amend detailed work plans, monitor engagement progress, and provide sufficient resources to ensure timely completion of the engagement, review analytical results and interim findings, review the draft and final reports, and respond to questions regarding the progress of the engagement and other issues.

Schedule

Recognizing that we rely upon Allied for the timely preparation of documents and response to our questions, we plan to perform this engagement in accordance with the following schedule:

Key Milestones		Deliverable	Completion Date (week ending)
1.	Kick-off Meeting	Kick-off Agenda	July 6, 2007
2.	Negotiation Assistance Scoping Meetings– Cost Savings	Meeting Agendas	July 20, 2007
3.	Complete Review of Allied's Rate Statement	Summary of Recommended Adjustments	September 30, 2007
4.	Meet with City to Review Adjustments	Draft Report	October 14, 2007
5.	Issue Final Report	Final Report	November 1, 2007
6.	Council Presentation	Presentation	November 20, 2007

All work shall be completed by June 30, 2008.

Exhibit B- Budget

City of Milpitas
Solid Waste Rates Financial Analysis

		Hilton	Simonson	Sheehan	Analyst	Admin	Total	
<i>Billing Rate</i>		<i>\$0.00</i>	<i>\$185.00</i>	<i>\$185.00</i>	<i>\$110.00</i>	<i>\$75.00</i>		
Task/Step	Description							
Task 1	<u>Prepare for, Attend, and Document</u>	Hours	0	6	6	0	2	14
	<u>Kick-off Meeting</u>	Fees	\$0	\$1,110	\$1,110	\$0	\$150	\$2,370
Task 2	<u>Service Evaluation</u>	Hours	0	40	40	12	0	92
		Fees	\$0	\$7,400	\$7,400	\$1,320	\$0	\$16,120
Task 3	<u>Review Allied's Rate Adj Statement</u>							
3.1	Mathematical Accuracy and Logical Consistency			1	6			
3.2	Indices				2			
3.3	Non-Recurring or Fully-Amortized Costs			4	4			
3.4	Extraordinary Costs		2	4	6			
3.5	Subtitle D Costs		1	2	2			
3.6	City Fees			2				
3.7	Calculate Adjusted Solid Waste Rates		2	2	4			
3.8	Negotiation Meetings /Conference Calls		32	32	8			
Sub-total		Hours	0	37	47	32	0	116
		Fees	\$0	\$6,845	\$8,695	\$3,520	\$0	\$19,060
Task 4	<u>Communicate Results</u>							
4.1	Prepare Draft Report and Meet with City Staff		16	16	8	6		
4.2	Prepare Final Report		4	8		4		
4.3	Prepare for and Attend Council Meeting		8	8	2	4		
Sub-total		Hours	0	28	32	10	14	84
		Fees	\$0	\$5,180	\$5,920	\$1,100	\$1,050	\$13,250
Task 5	<u>Engagement Management</u>	Hours	2	8	8	0	0	18
		Fees	\$0	\$1,480	\$1,480	\$0	\$0	\$2,960
Total Fees		Hours	2	119	133	54	16	324
		Fees	\$0	\$22,015	\$24,605	\$5,940	\$1,200	\$53,760
Out-of-Pocket Expenses								\$1,200
Total Budget								\$54,960

HF&H CONSULTANTS, LLC
STANDARD HOURLY RATES AND BILLING ARRANGEMENTS¹
(Effective January 1, 2007 through January 1, 2008)

Professional Fees

Hourly rates for professional and administrative personnel are as follows:

<u>Position</u>	<u>Rate</u>
President	\$235
Senior Vice President & Vice President	\$180 - \$230
Senior Manager	\$175 - \$195
Senior Associate	\$145 - \$185
Associate	\$105 - \$130
Assistant Analyst	\$75 - \$95
Administrative Staff	\$75

Direct Expenses

Standard charges for common direct expenses are as follows:

Automobile Travel	Prevailing IRS mileage rate
Document Reproduction	15 cents per page (black & white)
	75 cents per page (color)
Facsimile	No charge
Telephone	No charge
Public Conveyances	Actual
Postage	Actual
Overnight Mail and Couriers	Actual

¹ Litigation Support and Expert Witness Services are not covered by this schedule of fees and expenses.

Billing Policies

Our policy is to bill for our services and direct expenses based on the standard hourly rates of the staff member assigned, multiplied by the time required to perform the client-related tasks, plus the subcontractor services as described above. In implementing this policy we adhere to the following practices:

It is our standard practice to e-mail invoices to our clients, although hard copies of invoices can be sent to clients on request.

We round to the nearest one-half hour (e.g., if two hours and 50 minutes are spent on a task, it is recorded as three hours, if two hours and 10 minutes are spent on a task, it is recorded as two hours). A minimum charge of one-half hour is charged for any client work performed in a day.

We attempt to schedule travel time before and after normal work hours and we do not bill for this time. If travel occurs during normal work hours and we can use public conveyances, we attempt to use the time productively for the benefit of the client or for another client and this time is billed to the appropriate client. If we must travel during business hours and cannot use the time productively or use a public conveyance, we bill the time to the client on whose behalf we are traveling.

Because public meetings (e.g., Board of Supervisors, City Council, and Board of Directors meetings) generally occur after business hours and are not conducted in accordance with strict schedules, our standard policy is to bill a minimum two-hour charge.

We do not mark up out-of-pocket expenses, however, we may charge administrative or professional time related to the provision of the goods and services associated with these charges. Costs for outside consultants and subcontractors are billed at actual cost plus a 15 percent administrative fee.

Mileage fees are based on the round-trip distance from the point of origin.

If a client's change to a previously scheduled meeting results in penalties being assessed by a third party (e.g., airline cancellation fee), then the client will bear the cost of these penalties.

While no minimum fee for a consulting engagement has been established, it is unlikely (given the nature of our services) that we can gain an understanding of a client's particular requirement, identify alternatives, and recommend a solution in less than twenty-four hours.

Insurance

We maintain the following policies of insurance with carriers doing business in California:

Comprehensive General Liability Insurance (\$2,000,000)

Workers' Compensation (\$1,000,000)

Professional Liability Insurance (\$2,000,000)

All costs incurred in complying with special insurance, licensing, or permit requirements, including but not limited to naming client as an additional insured and waiver of subrogation, become the responsibility of the client and are not included in the fees for services or direct charges but are billed in addition to the contract at cost, plus any professional or administrative fees.

Invoices and Payment for Services

Our time reporting and billing system has certain standard formats that are designed to provide our clients with a detailed invoice of the time and charges associated with their engagement. (We typically discuss these with our clients at our kick-off meeting.) We are also pleased to provide our clients with a custom invoice format but we will have to bill the client for any additional costs associated with their unique requirements.

Billings for professional services and charges are submitted every month, in order that our clients can more closely monitor our services. A late fee of one and one-half percent per month is applied to balances unpaid after thirty (30) days.



EXHIBIT C

INSURANCE REQUIREMENTS

Definition:

For purposes of this contract, the following definition applies: City of Milpitas includes the duly elected or appointed officers, agents, employees and volunteers of the City of Milpitas, individually or collectively.

Insurance Required:

No work shall be done under this Contract unless there is in effect insurance required by the Contract and under this section, and such insurance has been approved by the CITY, nor shall the CONTRACTOR allow any subcontractor to commence work on his subcontract until all insurance required of the subcontractor has been so obtained and approved. The CONTRACTOR shall maintain or cause to be maintained adequate workers' compensation insurance as required under the laws of the State of California, for all labor employed by him or by any subcontractor under him who may come within the protection of such worker's compensation laws of the State of California and shall provide or cause to be provided employer's general liability insurance for the benefit of his employees and the employees of any subcontractor under him not protected by such compensation laws.

A. Minimum Scope of Insurance:

Coverage shall be *at least as broad as*:

1. Insurance Services Office Form CG 0001 covering Commercial General Liability on an "occurrence" basis.
2. Insurance Services Office Form Number CA 0001 covering Automobile Liability, Code 1 (any auto).
3. Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

Minimum Limits of Insurance:

Contractor shall maintain limits no less than:

1. **General Liability:** (Including operations, products and completed operations.)

\$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. **Automobile Liability:** \$1,000,000 per accident for bodily injury and property damage.
3. **Employer's Liability:** \$1,000,000 per accident for bodily injury or disease.

Deductibles and Self-Insured Retentions:

Any deductibles or self-insured retentions must be declared to and approved by the Entity. The Entity may require the Contractor to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

Other Insurance Provisions:

The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. **The Entity, its officers, officials, employees, and volunteers are to be covered as insureds** with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the contractor; and with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO Form CG 20 10 11 85), or as a separate owner's policy.

2. For any claims related to this project, the **Contractor's insurance coverage shall be primary** insurance as respects the Entity, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the Entity, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

3. The Insurance Company agrees to **waive all rights of subrogation** against the Entity, its elected or appointed officers, officials, agents and employees for losses paid under the terms of any policy which arise from work performed by the Named Insured for the Agency. This provision also applies to the Contractor's Workers' Compensation policy.

4. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either party, except after thirty (30) days' prior written notice (10 days for non-payment) by certified mail, return receipt requested, has been given to the Entity.

Acceptability of Insurers:

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the Entity.

Verification of Coverage:

Contractor shall furnish the Entity with original certificates and amendatory endorsements effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the Entity before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the contractor's obligation to provide them. The Entity reserves the right to require complete, certified copies of all required insurance policies, including endorsements effecting the coverage required by these specifications, at any time.

The Certificate with endorsements and notices shall be mailed to: City of Milpitas, Attention: Purchasing, 455 East Calaveras Boulevard, Milpitas California, 95035-5411.

Absence of Insurance:

If the CONTRACTOR allows the insurance to lapse, be cancelled, or be reduced below the limits specified in this article, the Contractor shall cause all work in the Project to cease and any delays or expenses caused due to stopping of work and change of insurance shall be considered CONTRACTOR's delay and shall not be considered to increase cost to the CITY or increase time in which the Project shall be completed.